

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: WASHINGTON MUTUAL
MORTGAGE BACKED SECURITIES
LITIGATION

This Document Relates to: ALL CASES

Master Case No.: C09-0037 (MJP)

**DECLARATION OF ANNE BOX IN
SUPPORT OF PLAINTIFFS' RULE 7(g)
SURREPLY**

ORAL ARGUMENT REQUESTED

*Declaration of Anne Box in Support of
Plaintiffs' Rule 7(g) Surreply*
Case No. C09-037 MJP

1 I, Anne Box, hereby declare as follows under penalty of perjury pursuant to 28 U.S.C.
2 §1746, that:

3 1. I am an attorney licensed to practice in the State of California. I am employed by
4 Scott+Scott LLP, which, along with Cohen Milstein Sellers & Toll PLLC, is lead counsel in this
5 action. I have been actively engaged in discovery in this case and, in that capacity, I am familiar
6 with documents filed, served, produced and reviewed by Plaintiffs' counsel, their employees,
7 contractors, and experts. I have also been actively engaged in taking depositions in this case.
8 Among other things, I retained a private investigative firm which located Diana Jeanty ("Jeanty")
9 and Denise Luedtke ("Luedtke"), among many other potential witnesses who were identified in
10 Lead Plaintiffs' Supplement to Fed. R. Civ. P. 26(a) Initial Disclosures served on April 12, 2012,
11 and Lead Plaintiffs' Second Supplement to Fed. Civ. R. P. 26(a)(1) Initial Disclosures served on
12 May 9, 2012 (collectively, the "Supplemental Disclosures").

13 2. Attached as Exhibit A is a true and correct copy of Plaintiffs' First Set of
14 Interrogatories to Defendants¹ dated July 5, 2011 (the "Interrogatories"). By Interrogatory No. 6,
15 Plaintiffs requested Defendants "Identify all Persons with whom You discussed Your
16 underwriting policies, procedures, or standards relating to the Certificates."

17 3. Attached as Exhibit B is a true copy of Defendants' Responses and Objections to
18 these Interrogatories, dated August 8, 2011. In their Answer to Interrogatory No. 6, Defendants
19 objected that the request was "vague," "ambiguous," "unintelligible," "overbroad," "unduly
20 burdensome," "incomplete," "oppressive" and "seeks a compilation or analysis of millions of
21 pages of documents that have or will be produced by Defendants and third parties." In their
22 response to Plaintiffs' request in Interrogatory No. 6 to identify the underwriting information,
23 Defendants directed Plaintiffs to review, *inter alia*, the 1.7 million documents produced by
24 JPMorgan Chase ("Chase") as of that time. *Id.*

25
26
27 ¹ The Defendants in this action are WaMu Asset Acceptance Corporation, WaMu Capital
Corporation, David Beck, Richard Careaga, Rolland Jurgens, and Diane Novak.

1 two other fact witnesses testified after the February 10, 2012 fact discovery cutoff. *See* ECF No.
2 362. Additionally, all of the 12 expert witnesses are, by consent, testifying beyond the discovery
3 cut-off in order to accommodate the witnesses' and counsel's schedules. Thus, had Defendants
4 met and "conferred" under Local Rule 7(d)(4) over what is essentially a "motion *in limine*,"
5 Plaintiffs would have agreed to Defendants' deposing Jeanty and Luedtke out of time, making
6 their Motion to Preclude Use of Untimely Disclosed Witnesses unnecessary.

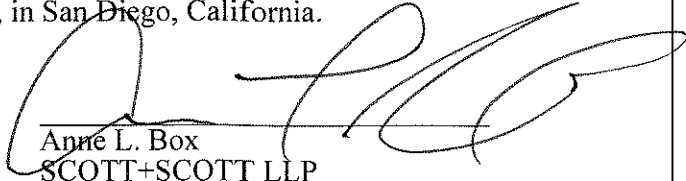
7 8. With respect to the millions of pages of electronic and hard copy mortgage loan
8 files that have been produced, I sought unsuccessfully to have our experts identify a viable and
9 cost-effective method for isolating which of the mortgage loans underlying the Certificates in
10 this case originated out of the Montebello and Downey Loan Fulfillment Centers ("LFCs").
11 Additionally, David Beck testified in his deposition on January 18, 2012, that WaMu did not
12 track its mortgage loans by loan center. Beck Tr. (Pltfs.' Ex. 4) at 83:5-84:4.

13 9. The significance and reliability of data contained in WaMu's electronic loan files
14 is not self-evident. *See, e.g.*, the April 1, 2008 email from Lowery to Fortunato, attached as
15 Exhibit C. After Defendants filed the internal loan tapes with their Motion for Summary
16 Judgment (Defendants' Exs. 15-20), I requested that Defendants provide document code
17 mapping charts pertaining to these exhibits; Defendants denied this request. *See* Exhibit D.

18 10. As such, without further information, Plaintiffs are unable to evaluate or
19 adequately respond to the testimony of Hector Valdes, Esq. ("Valdes") contained in his
20 declaration concerning the extent to which mortgage loans underlying Plaintiffs' Certificates
21 were originated from the Montebello and Downey LFCs. Having reviewed the locations of the
22 mortgage properties for loans contained in Defendants' Ex. 17 to the Motion for Summary
23 Judgment that were identified by Valdes as having originated from Downey and Montebello, it
24 appears that whatever data Valdes was using is unreliable since several of the mortgaged
25
26 properties were not located in California. Specifically, Loan #3011242066 in Ex. 17, Row #181
27 is purportedly located in Manassas, Virginia; Loan #3011534835 in Ex. 17, Row #584 is

1 purportedly located in North Andover, Massachusetts; and Loan #3011093758 in Ex. 17, Row
2 #826 is purportedly located in Centerport, New York.

3 Executed this 30th day of May 2012, in San Diego, California.

4 
5 Anne L. Box
6 SCOTT+SCOTT LLP
7 707 Broadway, Suite 1000
8 San Diego, CA 92101
9 Telephone: 619-233-4565
10 Fax: 619-233-0508
11 E-mail: abox@scott-scott.com

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2012, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List, and I hereby certify that I caused the foregoing document or paper to be mailed via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 30, 2012.

/s/ Anne L. Box

Anne L. Box
SCOTT+SCOTT LLP
707 Broadway, Suite 1000
San Diego, CA 92101
Telephone: 619-233-4565
Fax: 619-233-0508
E-mail: abox@scott-scott.com